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AUTHOR Crowley, John C.
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ABSTRACT

The impact of increasing federal regulation on American universities is discussed based on an informal survey of senior academic and administrative officials in 13 public and private universities. As government regulation is becoming more intensive and compliance more resource- and time-consuming, government is perceived as having little appreciation for the power and value of academic freedom. With stipulated administrative procedures and required bureaucracy have come pressures toward centralized institutional decision making and away from the traditional decentralized collegial style. The need to recognize the differences between universities and other types of institutions is emphasized. The most serious challenges to institutional freedom are imposed by the implementation of federal affirmative action and costing policies administered by the Department of Health, Education, and Welfare. The heart of the debate over regulation and autonomy is the concern to protect traditional freedoms in the four areas of curriculum, faculty recruitment, student admission, and methods of teaching. The need for universities to improve their legislative skills and two activities that have recently been undertaken by several higher education associations to address regulatory problems in research are discussed. (SW)

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1978 NATIONAL FORUM OF THE COLLEGE BOARD

OCTOBER 30, 1978

THE UNIVERSITIES AND FEDERAL REGULATION

JOHN C. CROWLEY

DIRECTOR OF FEDERAL RELATIONS FOR SCIENCE RESEARCH

ASSOCIATION OF AMERICAN UNIVERSITIES

I AM GLAD TO HAVE THE OPPORTUNITY TO PARTICIPATE IN THE 1978 NATIONAL FORUM OF THE COLLEGE BOARD.

IT WAS WILL ROGERS, I THINK, WHO ONCE OBSERVED, "WE'RE JUST LUCKY WE'RE NOT GETTIN' ALL THE GOVERNMENT WE'RE PAYING FOR." IN THE PAST DECADE, HOWEVER, GOVERNMENT SEEMS TO HAVE BEEN DELIVERING MORE THAN MANY BARGAINED FOR. THERE WAS A TIME WHEN UNIVERSITIES SEEMED TIED TOGETHER ONLY BY A COMMON DEPENDENCE ON PLUMBING AND PARKING LOTS, BUT A NEW UNIFYING FORCE HAS BEEN ADDED IN THE FORM OF A GROWING CONCERN ABOUT THE IMPACT ON THE ACADEMIC ENTERPRISE OF MUSHROOMING FEDERAL REGULATION. IF THE FREQUENCY OF CONFERENCES LIKE THIS ONE IS AN ACCURATE MEASURE, EMOTIONS ARE RUNNING HIGH INDEED IN ALL PROFESSIONAL CORNERS OF THE COMMUNITY.

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

THE GROWTH IN FEDERAL LAWS MANDATING THE REGULATION OF UNIVERSITIES HAS BEEN STARTLING. AT LEAST 23 DIFFERENT LAWS NOW REQUIRE REGULATION IN THE AREAS OF DISCRIMINATION, EMPLOYMENT BENEFITS, SAFETY, STUDENT AID, FUNDS ACCOUNTABILITY, AND HEALTH EDUCATION AND DELIVERY. IT IS SIGNIFICANT THAT OF THE 23, ONLY 5 APPLY SOLELY TO EDUCATIONAL INSTITUTIONS. IT HAS BEEN ESTIMATED BY DR. CHARLES V. KIDD THAT THE TOTAL VOLUME OF REGULATIONS, AVERAGING 25 PAGES PER REGULATION, WOULD MAKE AN OVERSIZED 500-PAGE, SMALL PRINT BOOK. IN 1972, THE UNITED STATES OFFICE OF EDUCATION PUBLISHED 32 DOCUMENTS IN THE FEDERAL REGISTER. IN 1976, IT PUBLISHED 270 NOTICES AND REGULATIONS. THE FEDERAL REGISTER GREW FROM ABOUT 3500 PAGES IN 1937 TO 36,000 PAGES IN 1973, AND NEARLY DOUBLED IN THE NEXT TWO YEARS TO OVER 60,000 PAGES. CONGRESS ENACTED 402 LAWS IN 1975 WHILE 7,496 NEW REGULATIONS WERE PUBLISHED. THE EFFECT OF ALL THIS ON COLLEGES AND UNIVERSITIES HAS BEEN PERVASIVE. VITUALLY NO INSTITUTIONAL ACTIVITY HAS IMMUNITY.

I WANT TO SHARE WITH YOU A SENSE OF THE MOOD ON CAMPUS AS I FOUND IT THROUGH A RECENT INFORMAL SURVEY OF SENIOR ACADEMIC AND ADMINISTRATIVE OFFICIALS IN 13 PUBLIC AND PRIVATE UNIVERSITIES. THIS WAS NOT A STATISTICAL RESEARCH PROJECT, JUST A REQUEST FOR THE CONSIDERED JUDGMENT OF EXPERIENCED AND KNOWLEDGEABLE INDIVIDUALS.

TO BEGIN WITH AN OBVIOUS POINT, THERE IS AN ACCELERATING TREND TOWARD REGULATION. MUCH OF IT IS RECOGNIZED ON CAMPUS AS SOCIETY'S COMMITMENT TO CORRECT REAL FAILURES IN THE SYSTEM. UNINTENDED CONSEQUENCES IN THE IMPLEMENTATION OF REASONABLE REQUIREMENTS, HOWEVER, OFTEN POSE SERIOUS PROBLEMS AND EVEN THREATEN THE ACADEMIC

PROCESS. FROM THE CAMPUS PERSPECTIVE, GOVERNMENT SEEMS NOW TO DISTRUST THE ACADEMIC COMMUNITY. GOVERNMENT APPEARS TO HAVE LOST AWARENESS OF THE OPERATIONAL MEANING OF FACULTY AUTONOMY. AS REGULATION HAS BECOME MORE INTENSIVE AND COMPLIANCE MORE RESOURCE AND TIME CONSUMING, GOVERNMENT IS PERCEIVED AS HAVING LITTLE APPRECIATION FOR THE POWER AND VALUE OF ACADEMIC FREEDOM.

STIPULATED ADMINISTRATIVE PROCEDURES AND REQUIRED BUREAUCRACY HAVE GROWN RAPIDLY. WITH THEM COME PRESSURES TOWARD CENTRALIZED INSTITUTIONAL DECISION MAKING AND AWAY FROM THE TRADITIONAL DE-CENTRALIZED COLLEGIAL STYLE. INCREASINGLY STRAINED RELATIONS BETWEEN FACULTY AND ADMINISTRATORS OFTEN RESULT. A PERCEIVED SUSPICION IN GOVERNMENT THAT UNIVERSITIES ARE FORMER PARTNERS NOW CAUGHT CHEATING FEEDS A SENSE OF HARRASSMENT ON CAMPUS. UNCERTAINTY, RESENTMENT, AND CONFUSION SEEM TO HANG LIKE A HAZE OVER THE CAMPUS.

THE PROBLEM, SOME FEEL, STEMS FROM A BASIC FAILURE OF GOVERNMENT TO UNDERSTAND OR TO TAKE INTO ACCOUNT THOSE ESSENTIAL DIFFERENCES AMONG SOCIETY'S REGULATED INSTITUTIONS. DESPITE SOME COMMON FEATURES, UNIVERSITIES STILL DIFFER FUNDAMENTALLY FROM GOVERNMENT AND FROM INDUSTRY IN THEIR PURPOSE, ORGANIZATION, AND GOVERNANCE. THE ATTEMPTED IMPOSITION OF REGULATIONS FORMULATED FOR INDUSTRY HAS CAUSED SERIOUS AND COSTLY PROBLEMS.
SEVERAL INSTITUTIONAL OFFICIALS WITH WHOM I SPOKE QUICKLY POINTED OUT, HOWEVER, THAT THEY UNDERSTAND MOST REGULATION IS NOT DIRECTED SOLELY TOWARD COLLEGES AND UNIVERSITIES. WE ARE CAUGHT UP IN BROADER SOCIAL CHANGE. ONE SUMMED UP THE PROBLEM THIS WAY:

"THERE IS NO GREAT MALICE NOR CONSPIRACY AGAINST US AS SOME HAVE STATED. MERELY, WE ARE OFTEN THE TAIL ON A MUCH LARGER OX WHICH IS BEING GORED."

THE MOST SERIOUS CHALLENGES TO INSTITUTIONAL FREEDOM, AND THE MOST TROUBLESOME ADMINISTRATIVE AND FINANCIAL BURDENS ARE IMPOSED BY THE IMPLEMENTATION OF FEDERAL AFFIRMATIVE ACTION AND COSTING POLICIES ADMINISTERED BY THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE. THERE ALSO SEEMS TO BE AGREEMENT ON THESE CAMPUSES THAT INSTRUCTIONAL AND RESEARCH BUDGETS HAVE BEEN REDUCED, AND INSTITUTIONAL FLEXIBILITY HAS BEEN LOST, DUE TO THOSE COMPLIANCE COSTS. THE EXPENDITURE OF LARGELY INCREASED FUNDS ON ACTIVITIES NOT DIRECTLY RELATED TO THE BASIC MISSION OF THE INSTITUTION IS A CHRONIC WORRY. THE PROSPECTS OF GREATER REGULATION OF THE CONTENT AND PROCESSES OF RESEARCH AND OF DIMINISHED FREEDOM LOOM LARGE. ONE UNIVERSITY OFFICIAL REPORTED,

"WE USE LESS COSTLY EQUIPMENT IN TEACHING LABORATORIES. OUR EQUIPMENT IS NOT BEING PROPERLY MAINTAINED AND UPDATED AND WE SIMPLY DO NOT CARRY OUT SOME OF THE MORE EXPENSIVE TEACHING DEMONSTRATIONS OF EARLIER YEARS. WE ARE NOW AT THE POINT WHERE WE CANNOT DO SOME RESEARCH THAT WE WANT TO DO BECAUSE WE DO NOT HAVE THE FACILITIES, AND THE FUNDS ARE NOT AVAILABLE TO GET THEM."

ANOTHER EXPLAINED,

"A RECENT ESTIMATE FROM MY INSTITUTION SUGGESTS THAT REGULATORY COMPLIANCE COSTS HAVE INCREASED BY ABOUT A FACTOR OF 10 (FROM

SEVERAL HUNDRED THOUSAND TO SEVEN MILLION DOLLARS ANNUALLY) BETWEEN 1970 AND THE PRESENT. SINCE OUR INCOME HAS NOT KEPT PACE WITH NEEDS OR INFLATION, IT CAN BE SAID THAT BUDGETS HAVE INDEED BEEN REDUCED BECAUSE OF ADDED COMPLINACE COSTS."

AS YOU CAN SEE, THE DOMINANT MOOD AMONG THIS BAKER'S DOZEN IS PESSIMISM. A FEW CLING TENACIOUSLY TO THEIR OPTIMISM, BUT MOST ARE INCREASINGLY PESSIMISTIC OVER THE FUTURE ABILITY OF THE UNIVERSITIES EITHER INDIVIDUALLY, OR COLLECTIVELY, TO MAINTAIN A BALANCE BETWEEN THE REQUIREMENTS OF FEDERAL REGULATION AND INSTITUTIONAL FREEDOM. FEELINGS OF HOPELESSNESS AND RESENTMENT AMONG FACULTY SEEM TO BE GROWING OVER THE INCREASING NUMBER OF CONTROLS AND THE GREAT TIME AND EFFORT EXPENDED ON COMPLIANCE ACTIVITIES THAT THEY SEE AS BEARING NO OBVIOUS FRUITS. ON THIS POINT, ONE RELATED THE FOLLOWING TYPICAL INCIDENT:

"UNDER GREAT PRESSURE OVER THE JULY 4TH WEEKEND, DOZENS OF PERSONS ON THIS CAMPUS PROVIDED NEW DATA ON AFFIRMATIVE ACTION. THESE DATA, (A FOOT HIGH PILE), WERE NOT EXAMINED BEFORE THE DISAPPROVAL THAT LED TO THE QUICK PRODUCTION OF THEM WAS LIFTED. WE HAVE NO EVIDENCE THAT THEY HAVE BEEN INSPECTED YET."

COULD IT BE, SOME ASK, THAT SOCIETY REALLY DOES NOT UNDERSTAND, OR WORSE, DOES NOT CARE, THAT FUNDS ARE BEING DIVERTED FROM TEACHING AND RESEARCH TO PAY FOR NON-INSTRUCTIONAL EXPENSES? IS SOCIETY MOVING DELIBERATELY TOWARD A HOMOGENIZATION OF ITS INSTITUTIONS AND TO A TIME WHEN UNIVERSITIES,

BOTH PUBLIC AND INDEPENDENT, WILL LOOK ALIKE? ARE THE STRENGTHS THAT DERIVE FROM THE TRADITIONAL DISTINCTIONS BETWEEN PUBLIC AND PRIVATE INSTITUTIONS GOING TO BE COMPROMISED, OR LOST?

LEADERS OF THE CURRENT ADMINISTRATION ARE GIVEN GOOD MARKS BY MANY FOR THEIR ATTEMPTS TO INCREASE SUPPORT FOR BASIC RESEARCH AND FOR THEIR COMMITMENTS TO IMPROVE PROGRAM ADMINISTRATION AND TO EASE BURDENSOME REGULATION. NONETHELESS, MOST SEE LITTLE SIGNIFICANT CHANGE IN SPECIFIC PROGRAMS AND COMPLIANCE ACTIVITIES. ONE ACADEMIC ADMINISTRATOR OBSERVED, "THE ADMINISTRATION'S WORDS ON SUCH MATTERS AS INCREASED SUPPORT FOR BASIC RESEARCH AND REDUCTION OF PAPERWORK ARE A DISTINCT IMPROVEMENT. I AM MORE SKEPTICAL ABOUT ITS ACTIONS." AN OPTIMIST, HE CONCLUDES, "THE JUGGERNAUT OF FEDERAL REGULATION HAS NOT SLOWED PERCEPTABLY. HOWEVER, THE ROAD FROM PHILOSOPHY THROUGH POLICY TO ACTION IS A LONG ONE AND I AM MODERATELY HOPEFUL ABOUT THE FUTURE."

LOOKING AHEAD, THE CONTINUING DEBATE OVER THE REGULATION OF UNIVERSITIES WILL BE SHAPED BY SEVERAL FACTS. FIRST, DESPITE TENSIONS, EXTRAORDINARY ACCOMPLISHMENTS HAVE FLOWED FOR OVER A CENTURY FROM THE HISTORICAL RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND UNIVERSITIES. WITH THE HELP OF FEDERAL AND STATE GOVERNMENTS, AND AT THEIR INSISTENCE, THE NATION'S UNIVERSITIES HAVE BECOME THE BEST IN THE WORLD, TRULY UNIQUE AND VITAL NATIONAL RESOURCES. THEIR RESEARCH AND TRAINING PROGRAMS AND THE SOCIAL CRITICISM THEY PROVIDE AFFECT AND, TO A LARGE

DEGREE, DETERMINE THE NATIONAL WELFARE AND OUR QUALITY OF LIFE. BUT, IN A REAL SENSE, THE LEADING RESEARCH UNIVERSITIES ALSO HAVE BECOME FEDERALLY DEPENDENT INSTITUTIONS. FEDERAL FUNDS TO CARRY OUT NATIONAL RESEARCH AND TRAINING PROGRAMS DISTINGUISH THEM. THE COMPETITIVE PURSUIT OF EXCELLENCE IN RESEARCH AND ADVANCED TRAINING IS FUELED BY A FUNDING RELATIONSHIP WHICH WILL CONTINUE TO MAKE THEM VULNERABLE INSTITUTIONS AS WELL.

THE HEART OF THE DEBATE OVER REGULATION AND AUTONOMY IS THE CONCERN TO PROTECT TRADITIONAL AND ESSENTIAL FREEDOMS IN THE FOUR AREAS OF CURRICULUM, FACULTY RECRUITMENT, STUDENT ADMISSION, AND METHODS OF TEACHING. THE ESSENTIAL STRENGTH OF INSTITUTIONS, PARTICULARLY THOSE REGARDED FOR THEIR EXCELLENCE, HAS BEEN THEIR INDEPENDENCE IN THESE AREAS AND THE FREEDOM THEY OFFER AS THE SOIL FOR NEW IDEAS. UNIVERSITIES, WE KNOW WELL, ARE COMPLEX AND CONSERVATIVE INSTITUTIONS. THEY WILL CONTINUE TO BE CHARACTERIZED BY COMPLEXITY AS THE DISCOVERY OF NEW KNOWLEDGE PROCEEDS AND AS NEW AND ADDED DEMANDS ARE PLACED UPON THEM. BECAUSE OF THAT UNIQUE COMPLEXITY, THEY ARE NOT GOOD AT ABSORBING OR RESPONDING TO RAPID CHANGE, ESPECIALLY CHANGE THAT IS OFTEN BROUGHT ABOUT THROUGH THE WELL INTENTIONED EFFORTS OF TEMPORARY GOVERNMENT OFFICIALS FILLED WITH REFORMIST ENERGIES.

JUST AS UNIVERSITIES ARE GROWING MORE COMPLEX, SO, TOO, ARE THE AGENCIES OF GOVERNMENT. THAT FACT IS WORTH NOTING. THE MANAGEMENT FRUSTRATIONS EXPRESSED BY INSTITUTION

HEADS OVER THE PROBLEMS OF CREATING INSTITUTIONAL CHANGE AMID A TENURED-IN FACULTY ARE TO A SURPRISING DEGREE SHARED BY THEIR COUNTERPARTS WHO ADMINISTER TO FEDERAL AGENCIES. ONE MAJOR AGENCY HEAD LISTENED RECENTLY TO A GROUP OF UNIVERISTY PRESIDENTS DESCRIBE THESE PROBLEMS AND SIMPLY RESPONDED, "WELCOME TO THE CLUB." UNIVERSITIES AND COLLEGES, THEREFORE, SHOULD HAVE MORE THAN A PASSING INTEREST IN THE PROPOSED DEPARTMENT OF EDUCATION. THE CIVIL SERVICE REFORM BILL, JUST PASSED BY CONGRESS, ALSO DESERVES OUR ATTENTION. IT MAY OFFER IMPORTANT OPPORTUNITIES TO OPEN THE SENIOR CIVIL SERVICE TO INDIVIDUALS WHO BY TRAINING AND EXPERIENCE POSSESS A GREATER SENSITIVITY TO AND UNDERSTANDING OF EDUCATIONAL INSTITUTIONS.

ABOVE ALL, ONE THING SEEMS CLEAR ABOUT THE FUTURE. GOVERNMENT REGULATION WILL CONTINUE. BOTH IN THEIR ROLE AS MAJOR EMPLOYERS AND IN THE CONTEXT OF THEIR RESEARCH AND TRAINING PROGRAMS, UNIVERSITIES AND COLLEGES WILL CONTINUE TO RECEIVE THE ATTENTION OF LAW MAKERS AND FEDERAL REGULATORS. THE SIZE OF THE ACADEMIC ENTERPRISE, THE GREAT NATIONAL INVESTMENT IN THESE INSTITUTIONS, AND THE CURRENT MOODS OF DISTRUST AND HUNGER FOR ACCOUNTABILITY GUARANTEE IT. THE QUESTION THEN BECOMES WHETHER GOVERNMENT AND THE UNIVERSITIES HAVE THE ABILITY AND THE WILLINGNESS TO WORK TOGETHER TO SHAPE THEIR INTERDEPENDENT FUTURES.

MANY OBSERVERS AGREE THAT GOVERNMENT OFFICIALS CAN AND SHOULD CONSIDER SEVERAL STEPS. FIRST, THE EXPERIENCE OF OTHER ADVANCED SOCIETIES SUGGESTS A CONSISTENT PRACTICE OF RESTRAINT. IS IT PRESUMPTUOUS TO SUGGEST THAT ALL BRANCHES OF THE FEDERAL GOVERNMENT CONSIDER WHETHER THE BROAD CURES THEY PROPOSE MIGHT BE WORSE THAN THE NARROW PROBLEMS THEY ADDRESS? THOSE CHARGED WITH THE RESPONSIBILITY OF HAVING A DIRECT HAND IN THE REDEFINITION OF

NATIONAL VALUES MIGHT CONSIDER WHAT VALUE THEY ATTACH TO DIVERSITY AND TO DECENTRALIZED DECISION-MAKING. DIVERSITY OF CONTROL, DIVERSITY BY TYPE OF INSTITUTION, BY PROGRAM AND BY PHILOSOPHY, ARE NATIONAL TREASURES. GREATER SENSITIVITY AND INDIVIDUAL WILL ARE NEEDED TO MAKE TIMELY AND EVEN COURAGEOUS DECISIONS, OFTEN ANONOMOUS DECISIONS, TO PROTECT THE FREEDOM TO BE DIFFERENT.

AT THE HEART OF VARIOUS RECOMMENDATIONS FOR CHANGE DIRECTED AT FEDERAL REGULATORS, ARE THE SIMPLE AND REASONABLE REQUESTS THAT THEY HONOR THE PRESUMPTION OF INNOCENCE AND THAT THEY CONSULT WITH THOSE TO BE REGULATED AT THE CONCEPTUAL STAGE OF THEIR WORK, NOT AFTER ALL THE BASIC DECISIONS ARE MADE AND REGULATIONS ARE PUBLISHED FOR COMMENT. EXPERIENCE SHOWS THAT AT THAT POINT IT IS OFTEN TOO LATE. THE PRESSURES TO ACT ON LEGISLATORS AND ON THE REGULATORS FREQUENTLY SEEM ENORMOUS, BUT ONE WOULD HOPE THAT OFFICIALS WOULD RESIST THE TEMPTATIONS TO JUDGE GUILT AND TO REGULATE BEFORE THEY UNDERSTAND THE CONSEQUENCES OF THEIR ACTS. IF ONE REGULATORY EYE WERE FOCUSED ON THE DIVERSITY AND ON THE COMPLEXITY OF THE ENTERPRISES TO BE REGULATED, AND IF WORK PROCEEDED ON THE ASSUMPTION OF INCOMPLETE UNDERSTANDING OF THE CONSEQUENCES OF ACTIONS ABOUT TO BE TAKEN, THEN REGULATIONS AND THE BURDENS IMPOSED BY REQUESTS FOR DATA, REPORTS, AND THE OTHER GRIST FOR THE COMPLIANCE MILL MIGHT SHRINK TO MORE REASONABLE PROPORTIONS.

UNIVERSITY REPRESENTATIVES, ON THE OTHER HAND, WHO ARE INVITED TO CONSULT WITH GOVERNMENT OFFICIALS IN THE FORMATIVE STAGES OF REGULATION SHOULD RESTRAIN THEMSELVES AND NOT SEIZE THE OPPORTUNITY TO APPEAL DIRECTLY TO THE TOP IN THE FIRST ROUND OF THE PROCESS. THOSE WHO CONFUSE EARLY PARTICIPATION WITH A MANDATE TO ACHIEVE EARLY VICTORY MAY RISK CHASING PROGRAM OFFICIALS BACK INTO BUREAUCRATIC REFUGES.

AS REGULATORS CONFRONT THE QUESTION OF WHERE TO DRAW THE LINE, THEY SHOULD BE ENCOURAGED TO RESIST TRADING IN THEIR PROFESSIONAL OBJECTIVITY FOR AN ADVOCACY ROLE AND TO ENLIST THE EARLY INFORMAL ADVICE OF COMPETENT PROFESSONALS IN THE FIELD. PROPOSALS FOR BLANKET PROSCRIPTIONS SHOULD TRIGGER AUTOMATIC ALARMS IN AGENCY OFFICES. THE EARLY PARTICIPATION OF PROFESSIONALS FROM THE REGULATED SECTOR IN THE FORMULATION OF THEIR REGULATIONS AND OF MORE REASONABLE, WORKABLE SANCTIONS ALSO WILL HELP INSURE MORE EFFECTIVE COMPLIANCE LATER ON. UNREASONABLE REQUIREMENTS IMPOSED BY UNINFORMED, POORLY TRAINED REGULATORS WILL SELDOM BE CARRIED OUT COOPERATIVELY, OR WITH ENTHUSIASM AND CONVICTION.

UNIVERSITIES HAVE BEEN ACCUSED BY SOME OF SEEKING SPECIAL TREATMENT. IT IS NOT SPECIAL TREATMENT, I THINK, THAT THEY SEEK - SIMPLY A GREATER SENSITIVITY AND UNDERSTANDING. THEY ARE SEARCHING FOR IMPROVED UNDERSTANDING, NOT OUT OF A SENSE OF NARROW SELF INTEREST, BUT OUT OF A CONVICTION THAT SENSITIVE REGARD FOR THE DELICACY OF THESE VITAL INSTITUTIONS IS IN THE NATIONAL INTEREST.

PROBLEMS ALSO ARE SOMETIMES CREATED AT OTHER POINTS IN THE REGULATORY PROCESS. A FAILURE TO OBSERVE ESTABLISHED LEGISLATIVE AND REGULATORY PROCESSES CAN LEAD TO SERIOUS DISRUPTION OF INSTITUTIONS AND TO UNNECESSARY AND COSTLY APPEAL EFFORTS. WHEN CONSCIOUS DECISIONS ARE MADE TO SHORT CIRCUIT THE SYSTEM, HAVOC ENSUES. THE COMMUNITY CLEARLY REMEMBERS THE STORM OF CONTROVERSY AND THE COSTS INCURRED AFTER SUPPORTERS AND SPONSORS OF THE SO-CALLED BUCKLEY AMENDMENT, IN ORDER TO ENACT A WELL INTENTIONED BUT POORLY CONCEIVED IDEA, CHOSE A STRATEGY THAT SHORT CIRCUITED THE LEGISLATIVE PROCESS.

A MORE RECENT EXAMPLE OCCURRED IN THE HEALTH MANPOWER BILL OF 1976 WHEN A NEW PROVISION EMERGED FROM THE HOUSE-SENATE CONFERENCE COMMITTEE THAT REQUIRED THE ADMISSION OF AMERICAN STUDENTS ENROLLED IN FOREIGN MEDICAL SCHOOLS WHO HAD COMPLETED 2 YEARS OF STUDY AND PASSED PART ONE OF THE NATIONAL MEDICAL BOARD EXAMINATIONS. THAT WAS IN DIRECT VIOLATION OF UNIVERSITY ADMISSIONS POLICIES AND PROCESSES. IT TOOK A YEAR OF BITTER CONTROVERSY AND COSTLY EFFORT TO REDUCE THE PROVISION TO IMPRUDENT FAVORITISM. FORTUNATELY, SUCH DRAMATIC EXAMPLES OF HASTY OVER-REGULATION ARE RELATIVELY RARE, BUT THEY DO ILLUSTRATE THE NEED FOR VIGILENCE AND FOR A MORE AGGRESSIVE PARTICIPATION IN THE LEGISLATIVE PROCESS.

THE SEARCH FOR DOCUMENTED COMPLIANCE COSTS CONTINUES, BUT EXACT STATEMENTS OF THEM SEEM IMPOSSIBLE. CONSIDER, HOWEVER, THE FOLLOWING ESTIMATE RECENTLY PREPARED BY DR. KIDD FOR THE NATIONAL SCIENCE BOARD:

> "THE FINANCIAL BURDEN OF FEDERAL REGULATION IS HEAVY. THE EXPENDITURES OF RESEARCH UNIVERSITIES IN FY 1977 APPROXIMATED $5 BILLION. ONE PERCENT OF THIS FIGURE IF $50 MILLION. THIS IS A MINIMUM ESTIMATE OF THE DOLLAR COST TO THIS GROUP OF UNIVERSITIES OF ADMINISTERING FEDERAL REGULATIONS. THE TRUE COST COULD BE MANY TIMES HIGHER, AND FOR ALL POSTSECONDARY EDUCATION THE FIGURE OF $2 BILLION IS NOT UNREASONABLE. THIS EQUALS THE TOTAL AMOUNT RECEIVED BY HIGHER EDUCATION FROM ALL PRIVATE SOURCES COMBINED."

THE DIFFICULTIES OF DOCUMENTING THESE COSTS ARE GREAT, BUT MOST INSTITUTIONS PROBABLY COULD DO A BETTER JOB OF ANALYZING THE COSTS OF FULFILLING THEIR SOCIAL OBLIGATIONS, AND PERHAPS OF ESTIMATING

ELLUSIVE OPPORTUNITY COSTS AND THE COSTS OF DIVERTED EFFORT. MOST INSTITUTIONS, I MIGHT ADD, ALSO COULD DO A BETTER JOB OF INFORMING THEIR NATIONAL ASSOCIATIONS OF THE RESULTS OF SUCH ANALYSES.

STRENGTHENED MECHANISMS FOR SELF REGULATION, INCLUDING IMPROVED PRIVATE ACCREDITATION, ALSO ARE NEEDED IN ORDER TO INCREASE OPPORTUNITIES FOR GOVERNMENT TO RELY UPON EXPERIENCED PROFESSIONAL JUDGMENTS TAKEN BY THE COMMUNITY. EFFORTS ARE UNDERWAY, LED BY THE AMERICAN COUNCIL ON EDUCATION AND OTHERS TO IMPROVE HIGHER EDUCATION'S CAPACITY FOR SELF REGULATION. THESE ARE IMPORTANT BECAUSE IN MANY CASES FEDERAL REGULATION SEEMS TO HAVE ENTERED A VACUUM LEFT BY EITHER THE INABILITY OR THE FAILURE OF INSTITUTIONAL, DISCIPLINARY, AND PROFESSIONAL COMMUNITIES TO ACHIEVE EFFECTIVE AND CREDITABLE SELF REGULATION.

THERE SEEMS TO BE AGREEMENT ACROSS BOTH PUBLIC AND INDEPENDENT SECTORS THAT THE FUNDAMENTAL, AND PERHAPS MORE DIFFICULT CHALLENGE, HOWEVER, IS A POLITICAL ONE. FOR THE GOOD OF THE NATION, AND IN THEIR OWN SELF INTEREST, COLLEGES AND UNIVERSITIES MUST IMPROVE THEIR LEGISLATIVE SKILLS. ROBERT ROSENZWEIG, VICE PRESIDENT FOR PUBLIC AFFAIRS AT STANFORD UNIVERSITY, RECENTLY ADDRESSED THE POINT AT THE ANNUAL MEETING OF THE AMERICAN COUNCIL ON EDUCATION. HE SAID,

> "THE INDEPENDENCE OF INSTITUTIONS OF HIGHER LEARNING WILL BE PROTECTED FROM FURTHER EROSION ONLY TO THE DEGREE THAT THOSE RESPONSIBLE FOR THOSE INSTITUTIONS ARE ALERTED AND AGGRESSIVE IN PROTECTING THEIR INTERESTS IN THE LEGISLATIVE PROCESS. I DO NOT FOR A MOMENT WANT TO MINIMIZE THE DIFFICULTIES OF THAT COURSE OF ACTION, NOT THE LEAST OF THEM IS THAT ON OCCASION, THOSE WHO SPEAK FOR HIGHER EDUCATION WILL FIND THEMSELVES ON THE UNPOPULAR SIDE OF PARTICULAR ISSUES AND EVEN AT TIMES, AT ODDS WITH THEIR OWN STUDENTS AND FACULTIES. THE PLAIN FACT IS THAT NO ONE WILL SPEAK OF THE LONG RUN INTEREST OF

INSTITUTIONS IF THOSE TO WHOSE CARE THEY ARE ENTRUSTED ARE NOT WILLING TO DO SO. IF HIGHER EDUCATION AND ITS LEADERS ARE NOT PREPARED TO SUSTAIN THE NECESSARY EFFORT, THEN NO FUTURE MEETING OF THIS BODY NEED TROUBLE ITSELF WITH THE QUESTION 'WHO DECIDES HOW WE SPEND OUR MONEY?' THE ANSWER WILL BE ONLY TOO CLEAR."

THE HIGHER EDUCATION COMMUNITY HAS DEVELOPED THE ABILITY TO RESPOND TO LEGISLATIVE CRISES BY TARGETING THEIR EFFORTS ON KEY CONGRESSIONAL COMMITTEE CHAIRMEN. WHAT THE COMMUNITY HAS NOT DONE, HOWEVER, IS UTILIZE THEIR OWN STATE CONGRESSIONAL DELEGATIONS WITH COMPARABLE EFFECTIVENSS. MUCH WORK REMAINS TO BE DONE BY INSTITUTIONS TO BUILD EFFECTIVE RELATIONSHIPS OF CONFIDENCE AND RESPECT WITH THEIR OWN CONGRESSMEN AND SENATORS. INSTITUTIONAL LEADERS ARE BEING CALLED NOW TO A SUSTAINED COMMITMENT OF TIME, STAFF, AND RESOURCES TO CONTINUE TO EDUCATE THEIR ALUMNI IN GOVERNMENT AND TO CREATE CONGRESIONAL UNDERSTANDING, SUPPORT AND LEADERSHIP ON BEHALF OF HIGHER EDUCATION.

NEXT JANUARY, LIKE THE START OF THE ACADEMIC YEAR, REPRESENTS A NEW EDUCATIONAL BEGINNING. THE 96TH CONGRESS WILL BE QUITE DIFFERENT FROM THOSE JUST A FEW YEARS AGO. NEW MEMBERS AND NEW CHAIRMEN WILL ASSUME RESPONSIBILITIES IN RECORD NUMBERS. THE PRESSURES ON CONGRESS WILL CONTINUE TO CREATE AN UNQUENCHABLE THIRST FOR NEW VISIONS, NEW IDEAS, NEW ISSUES, AND NEW PROPOSALS. WITH THEM WILL COME NEW OPPORTUNITIES FOR INSTITUTIONS TO HELP THEIR REPRESENTATIVES.

THERE ARE SOME WHO FEEL THERE IS TRUTH IN THE ASSERTION THAT THE STEP MOST DAMAGING TO THE NATIONAL INTEREST EVER TAKEN IN WASHINGTON WAS THE AIR CONDITIONING TO THE CONGRESS. OTHERS FEEL THE MOST DANGEROUS PERIOD IS NOW, THAT TIME BETWEEN

ADJOURNMENT OF ONE CONGRESS AND THE BEGINNING OF THE NEXT, WHEN STAFF PLAN FOR NEXT YEAR AND REDISCOVER OLD ISSUES AND HATCH NEW IDEAS. NOW IS A GOOD TIME FOR INSTITUTIONS TO BEGIN TO LEARN WHAT THEIR CONGRESSIONAL DELEGATIONS AND STAFF MEMBERS ARE PLANNING FOR NEXT YEAR AND I MIGHT ADD, TO SHARE THAT INFORMATION WITH THEIR NATIONAL ASSOCIATIONS.

OF COURSE LEGISLATIVE APPROACHES FAIL, AND WHEN THEY DO, INSTITUTIONS ARE PREPARED TO LITIGATE. RELUCTANTLY AND CAUTIOUSLY THE COMMUNITY ALSO IS BECOMING MORE LITIGIOUS.

I WANT TO CONCLUDE BY REPORTING BRIEFLY ON TWO ACTIVITIES THAT RECENTLY HAVE BEEN UNDERTAKEN BY SEVERAL HIGHER EDUCATION ASSOCIATIONS TO ADDRESS REGULATORY PROBLEMS IN RESEARCH. THE FIRST IS A PROMISING COOPERATIVE EXPERIMENT UNDERTAKEN BETWEEN THE NATIONAL SCIENCE FOUNDATION AND ELEVEN AAU RESEARCH UNIVERSITIES. THE PURPOSE OF THE EFFORT IS TO SIMPLIFY AND TO IMPROVE ADMINISTRATION OF NSF RESEARCH PROJECTS IN WAYS THAT HOPEFULLY WILL SAFEGUARD ACCOUNTABILITY AND RELIEVE SOME OF THE MORE OBJECTIONABLE DOCUMENTATION AND AUDIT REQUIREMENTS.

THE SECOND COMES OUT OF THE CONVICTION THAT A NEW POLICY FRAMEWORK AND A NEW PARTNERSHIP ARE NEEDED, GROUNDED IN THE THEORY OF NATIONAL INVESTMENT IN UNIVERSITIES RATHER THAN IN THE PRACTICES OF FEDERAL PROCUREMENT. WITH THE ENCOURAGEMENT OF DR. FRANK PRESS, THE PRESIDENT'S SCIENCE ADVISOR AND THE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY AND OTHERS, THE ASSOCIATION OF AMERICAN UNIVERSITIES, TOGETHER WITH FIVE OTHER NATIONAL EDUCATIONAL AND SCIENTIFIC ASSOCIATIONS, RECENTLY

ESTABLISHED A NATIONAL COMMISSION ON RESEARCH. THE COMMISSION GREW FROM A CONCERN THAT THE MECHANISMS AND PROCEDURES INVOLVED IN SEEKING AND ADMINISTERING FEDERAL FUNDS HAVE BECOME UNNECESSARILY CUMBERSOME, COSTLY AND COMPLEX. RELATIONSHIPS ARE STRAINED, AND THE SENSE OF SHARED OBJECTIVES AND MUTUAL UNDERSTANDING THAT IS ESSENTIAL TO EFFICIENCY AND EFFECTIVENESS IN ACCOUNTING FOR FEDERAL FUNDS AND APPLYING THEM TO THEIR INTENDED USE IS BEING ERODED. THE COMMISSION IS PREPARED TO WORK TOWARD EVOLUTIONARY STEPS AND MORE RADICAL REVISIONS OF THE SYSTEM WHERE THEY ARE NEEDED.

THE CREATION OF THE COMMISSION HAS ATTRACTED CONGRESSIONAL ATTENTION. IN A RECENT REPORT, THE SENATE APPROPRIATIONS COMMITTEE SAID,

> "THIS EFFORT MAY HAVE IMPLICATIONS GOVERNMENT-WIDE, BEYOND THE PURVIEW OF THIS COMMITTEE. THEREFORE, THE COMMITTEE AND WE HOPE OTHERS WILL FOLLOW THE WORK OF THE COMMISSION WITH INTEREST. WE URGE THE NATIONAL SCIENCE FOUNDATION AND ALL FUNDING AGENCIES, TO COOPERATE FULLY WITH THIS IMPORTANT EFFORT."

THE COMMISSION HELD ITS FIRST MEETING ON OCTOBER 13, AND THEY WILL CONTINUE TO WORK FOR AT LEAST A YEAR TO FORMULATE SPECIFIC PROPOSALS.

THE UNIVERSITY OF IOWA, IN A REPORT PREPARED FOR THE SLOAN COMMISSION ON GOVERNMENT AND HIGHER EDUCATION, SUMMED UP THE ISSUE THIS WAY,

"WHAT REALLY LIES AT THE BOTTOM OF THE CURRENT FUROR OVER GOVERNMENTAL REGULATIONS IS A LACK OF TRUST AND CONFIDENCE ON THE PART OF GOVERNMENT AND HIGHER EDUCATION IN EACH OTHER. THE RESOLUTION TO THE VAST ARRAY OF SEPARATE ISSUES WILL DEPEND IN LARGE MEASURE ON HOW EFFECTIVELY GOVERNMENT AND HIGHER EDUCATION CAN RESTORE THE BASIS OF THE PARTNERSHIP THAT FLOURISHED IN THE LAST TWO DECADES."

ULTIMATELY, OUR ATTITUDES, OUR VALUES AND OUR STAMINA, I BELIEVE, WILL BE THE KEYS TO THE RESTORATION OF BALANCE IN THE RELATIONSHIP BETWEEN REGULATION AND AUTONOMY.

THANK YOU.